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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/935,616	08/23/2001	Toshiya Mori	NAK1-BP80	9001

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EXAMINER

LAMBRECHT, CHRISTOPHER M

ART UNIT PAPER NUMBER

2611

DATE MAILED: 12/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/935,616

Applicant(s)

MORI ET AL.

Examiner

Christopher M. Lambrecht

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/10/2001</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 2, 5, 6, 9, and 10 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,374,405 to Willard (hereinafter “Willard”).

Regarding claims 1, 5, 9, and 10, Willard discloses a broadcasting apparatus (10, fig. 1) and corresponding method, program recording medium, and computer program (col. 6, ll. 47-51) that broadcasts broadcast programs (television programs and interactive content/applications, col. 4, ll. 18-35), each of which is to be reproduced by a receiving apparatus (20, fig. 1) in a reproduction time period between a reproduction starting time and a reproduction finishing time (*i.e.*, where each program is reproduced, col. 8, ll. 5-14, each is inherently reproduced between a reproduction starting time and finishing time),

the broadcast apparatus comprising:

scheduling means (34, fig. 3) for generating a schedule for transmitting the broadcast programs (col. 5, l. 55 - col. 6, l. 16), the schedule including a transmission starting time and a transmission finishing time for each broadcast program (*i.e.*, broadcast schedule for television

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programs, col. 5, ll. 2-8; transmission start times and delivery times for interactive applications, respectively, col. 6, ll. 34-42); and

transmission means (combination of multiplexing unit 33 and scheduler 34, fig. 3) for transmitting each broadcast program only in the time period between the transmission starting time and the transmission finishing time according to the schedule (col. 6, ll. 7-17),

wherein the scheduling means generates the schedule so that (a) as for a specific program (module 1, fig. 7a) among the broadcast programs, a transmission starting time (start time, *e.g.*, S_1 , fig. 7a) is set at a time a predetermined amount of time (transmission interval I_1 , fig. 7a) before the reproduction starting time (delivery time, D_1 , fig. 7a) of the specific program and a transmission finishing time is set at the reproduction starting time of the specific program (col. 9, ll. 16-41 and col. 4, ll. 50-60), and (b) as for a broadcast program other than the specified program (*i.e.*, a television program), a transmission starting time is set at the reproduction starting time of the broadcast program and a transmission finishing time is set at the reproduction finishing time of the broadcast program (where television programs are processed and reproduced at receiving station as they are received, col. 8, ll. 5-15, transmission start and finish times correspond with reproduction start and finish times, respectively).

As to claims 2 and 6, Willard discloses the broadcasting apparatus and method of claims 1 and 5, wherein

the predetermined amount of time in the schedule generated by the scheduling means is a time period necessary for transmitting the specific program at least once (col. 9, ll. 36-42 and col. 2, ll. 59-61).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3, 4, 7, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Willard.

Regarding claims 3, 4, 7, and 8, Willard discloses the broadcasting apparatus and method of claims 1, 2, 5, and 6, wherein

the scheduling means includes generation means for generating first messages (auxiliary/header packet 58, fig. 5) which designate the receiving apparatus to store the specific program (col. 7, ll. 57-65) in a storing unit (RAM 67, fig. 6) within the receiving apparatus (col. 9, ll. 61-66), and the transmission means transmits the first messages for a duration from the transmission starting time to the transmission finishing time of the specific program (col. 7, ll. 54-65). Willard fails to disclose, however, a second message, as claimed.

Official notice is taken of the fact that generating messages for triggering the reproduction of interactive content stored in a set-top box and transmitting said messages during a reproduction time period thereof is well known in the art and provides the content provider greater control over the reproduction of interactive content.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Willard to such that the scheduling means generates a second message which designates the receiving apparatus to reproduce the specific program stored in the storing unit, and the transmission means transmits the second message in the

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reproduction time period of the specific program, for the benefit of providing content providers with greater control over interactive services offered to subscribers.

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Conclusion

5. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

on _____.
(Date)

Typed or printed name of person signing this certificate:

Signature: _____

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Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. () _____ - _____ on _____.
(Date)

Typed or printed name of person signing this certificate:

Signature: _____

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Registration Number: _____

Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher M. Lambrecht whose telephone number is (571) 272-7297. The examiner can normally be reached on 9:30 AM - 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on (571) 272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Christopher M Lambrecht
Examiner
Art Unit 2611

cml


**HAITRAN
PRIMARY EXAMINER**